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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/631,877  | 07/31/2003  | Jes Tougaard Gram    | CU-3620                 | 1811             |
| 26530   | 7590        | 06/14/2006           | EXAMINER                |                  |
| LADAS & PARRY LLP<br>224 SOUTH MICHIGAN AVENUE<br>SUITE 1600<br>CHICAGO, IL 60604 |             |                      | HECKENBERG JR, DONALD H |                  |
|   |             |                      | ART UNIT                | PAPER NUMBER     |
|   |             |                      | 1722                    |                  |

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/631,877 | <b>Applicant(s)</b><br>GRAM, JES TOUGAARD |  |
|                              | <b>Examiner</b><br>Donald Heckenberg | <b>Art Unit</b><br>1722                   |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/355,448.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date = _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Applicant's election of claims 11-23 in the reply filed on 28 April 2006 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse. MPEP § 818.03(a). Claims 1-4 are withdrawn from further consideration.

2. Claim 16 of the instant application recites "wherein a front a each section of the middle part is identical to a back of each section." This should apparently read "of each section" instead. Appropriate correction is suggested.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-15 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Glover et al. (U.S. Pat. No. 4,744,741).

Glover discloses an apparatus for the manufacture of composite articles using rotating molds. The molding apparatus comprises a front part (13), a back part (11), and a middle part

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(17) disposed between the front and back parts (see Fig. 4).

The front part is movable relative to the back part between open and closed positions (see cl. 7, ll. 4-7). As shown in Fig. 3 for example, the middle part is divided into similar independent sections each being turnable about a respective axis which is perpendicular to the relative movement direction between the front and back parts. Also as shown in Fig. 3 and Fig. 4, the middle part sections can rotate about 180 degrees.

Glover further discloses the middle part sections surrounded by other apparatus structure, such as plates (16), and thus, the middle parts are inherently thermally insulated. Also, as the middle parts retain the molded products during rotation, the mold inherently has some hold-down mechanism to retain the molded objects (see Fig. 3).

Claims 21 and 23 of the instant application recite the features of the particular manner and use which the claimed molding apparatus is used. More specifically, claim 21 recites how the middle part is rotated during parts of the molding cycle, and claim 23 defines the molding materials used with the mold. It is well settled, however, that the intended use of an apparatus is not germane to the issue of patentability of the apparatus. In re Casey, 370 F.2d 576, 580, 152 USPQ 235, 238 (CCPA 1967); In re Otto, 312 F.2d 937, 939, 136 USPQ 458, 459

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(CCPA 1963); MPEP § 2115. An apparatus must be distinguished from the prior art in terms of structure rather than function. In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997); MPEP 2114. Still further, a claim containing a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987); MPEP 2114. In this case, Glover discloses an apparatus with all of the structural features defined in claims 21 and 23, and thus, anticipates the claims regardless of the defined operating manner and use in the claims.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966), that are applied for

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establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glover.

Glover discloses the molding apparatus as described above. Glover does not show embodiments of the molding apparatus with the front and back sections of the middle part to be identical, but rather the front and back sections have different shapes for molding differing shaped object. Glover notes, however, that the apparatus could be modified to make differing shaped products (cl. 9, l. 60 - cl. 10, l. 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified the molding apparatus disclosed by Glover as such to have made the front and back of the middle part to be identical (or a mirror image to one another) because modification of the shape of the molding parts of the apparatus to produce particularly shaped products is suggested by Glover. Note further, normally a change in the

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form or shape of a prior art structure is seen as an obvious modification to one of ordinary skill in the art unless it can be shown there is a new and unexpected result. In re Dailey, 357 F.2d 669, 672-73, 149 USPQ 47, 50 (CCPA 1966).

8. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glover in view of Watanabe et al. (U.S. Pat. No. 5,196,213).

Glover discloses the molding apparatus as described above. Glover does not show the middle parts as having an ejector mechanism. Watanabe, however, discloses that ball-screw mechanism ejector mechanisms are known in the art for the purpose of taking molded articles off and out of mold parts (see cl. 1, ll. 13-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified the apparatus disclosed by Glover as such to have the middle part further comprise a ball-screw ejector mechanism because such structures are known to allow for the discharge of molded articles from the mold parts as suggested by Watanabe.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald

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Heckenberg whose telephone number is (571) 272-1131. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached at (571) 272-1316. The official fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<<http://pair-direct.uspto.gov>>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

  
Donald Heckenberg  
Primary Examiner  
A.U. 1722

6-12-6